

REMARKS

This amendment responds to the Office Action which was mailed on April 4, 2005. In the specification, "heating profile" has been corrected as requested in the Office Action, and the Abstract has been expanded to at least 50 words. In the claims, Claims 1-17 have been canceled and new Claims 18-37 substituted therefor. It is respectfully submitted that new Claims 18-37 are in condition for allowance. Request a favorable reconsideration of this application in light of the amendment and the remarks set forth below which constitute a full and complete response to the outstanding Office Action.

Claim 9 was objected to because of the informality wherein "agent" should read "Agent." Claim 9 has been canceled, and it is submitted that the new claims substituted therefore properly include the term "Agent" when used.

Claims 1-17 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. More particularly, the sample heater assembly was said to be "conductively attached thermally" in the specification and the claims. It was asserted that it was not clear what was meant by this term. Actually, the specification recites that the sample containment reservoir and the heating element are "conductively attached thermally." Claims 1-17 have now been canceled and new Claims 18-37 substituted therefor. This term is no longer used in the new claims because it is not necessary to describe or claim the invention. Essentially, the sample heater assembly comprises a sample containment reservoir and a heating element which can be attached to the sample containment reservoir in such a manner that the heat generated by the heating element is effective at vaporizing any low volatility agents contained in the reservoir. The new claims adequately describe and claim the elements of the invention

without using the confusing and unnecessary term "conductively attached thermally." It is respectfully submitted that new Claims 18-37 do not lack enablement and are in condition for allowance.

Claims 3-4 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, it was unclear what was meant by "appropriate" in claims 3 and 4. These claims have now been canceled and new claims substituted therefor. The term "appropriate" is not used in new Claims 18-37 since it is unnecessary and unclear. It is respectfully submitted that new Claims 18-37 should now be considered definite and in condition for allowance.

Claims 1, 10-12, 14 and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by Genovese et al. U.S. Pat. No. 6,228,657, noting the Abstract, drawing, col. 7, lines 25-35, col. 8, lines 46-59, and col. 12, lines 50-65. Of course, Claim 1-17 have been canceled, and new Claim 18-37 substituted therefor. It is well established law that in order to anticipate applicant's claim, the single prior art reference must disclose each and every element of the claim. It is respectfully submitted that Genovese et al. does not disclose or describe each element of Claim 18 or Claim 34, which are the two independent claims from which all other claims depend.

Genovese et al. describes and claims a Material Ticket Reader, which can accept a collection element such as an M256 detector ticket, and can then control and automate the analysis of the collection element to make a detection. In the present invention applicant (same inventor Genovese) has created a separate and distinct invention which comprises a sample heater assembly that can be attached to the M256 kit so that low

volatility agents can be detected. The sample heater assembly is a completely different device than that described in the Genovese prior art. The sample heater assembly of the present invention was developed to be used with, and attached to, the M256 chemical agent detector ticket. In contrast, Genovese describes a material ticket reader into which the M256 ticket is inserted. More particularly, in Genovese, the collection element (30) (the M256 ticket) is inserted into the reader device (10) which automates the detection process. In contrast, applicant's sample heater assembly is designed to be attached to the M256 ticket, so that low volatility agents placed in the sample heater assembly can be detected by the M256 ticket. Therefore, the sample heater assembly is of an entirely different design, and the elements of Claim 18 reflect that different design which can be distinguished from Genovese et al.

For example, in Claim 18 the sample heater assembly comprises "a sample containment reservoir having means for attaching to said chemical agent detector, said sample containment reservoir also having means for attaching a heating element to said sample containment reservoir; and wherein said heating element is attached to said sample containment reservoir so that low volatility agents contained in said reservoir are effectively vaporized and detected by said detector." Thus, applicant's invention comprises a sample heater assembly which can be attached to a chemical agent detector, e.g., the M256 ticket, and a heating element which can attach to the sample containment reservoir such that low volatility agents can be vaporized and detected by the detector (M256 ticket). The elements of Claim 18 are simply not disclosed or described by the Genovese patent cited. Furthermore, Claims 19-33 are directly or indirectly dependent from Claim 18 and further limiting thereto, therefore these claims should also be in

condition for allowance. In addition, independent Claim 34 is drawn to a method for detection of low volatility agents which is also not taught in the prior art cited, and of course, Claims 35-37 are dependent therefrom and also should be in condition for allowance.

Claims 2-6, 8-9, 13, 15 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Genovese et al. Here again, these claims have been canceled and new claims substituted therefor. It is respectfully submitted that elements of Claims 18 and 34 are not taught or suggested by the prior art cited. There is simply no teaching or suggestion in Genovese of a sample heater assembly which can be attached to a chemical agent detector such as an M256 ticket. As described in the foregoing, applicant's claimed invention is very different from that described and taught in Genovese. Therefore, it is respectfully submitted that Claims 18-37 are patentable over the prior art cited.

While Claim 7 was objected to, it was conceded that Claim 7 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. This indication of allowable subject matter is acknowledged and appreciated. The limitation of Claim 7, which comprised means for adjusting the distance between the heating element and the sample containment reservoir, is now included in new Claim 25. However, based on the foregoing, it has not been rewritten in independent form because independent Claim 18 should now be considered in condition for allowance.

In summary, Claims 1-17 have been canceled and new Claims 18-37 substituted therefor. Claims 18-37 remain in the case and based on the foregoing amendments and remarks should not be considered indefinite, anticipated, or obvious. Accordingly, it is

respectfully submitted that these claims are patentable and in condition for allowance.
Early reconsideration and withdrawal of the rejections is earnestly solicited, as is
allowance of the claimed subject matter.

Respectfully submitted,

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DATE

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